



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC

### **Introduction:**

Both parties attended the hearing. The tenant confirmed personal service of the Notice to End Tenancy for cause dated September 18, 2016 to be effective October 31, 2016 and the landlord confirmed service by registered mail of the tenant's Application. The tenant applies pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for orders as follows:

- a) To cancel a Notice to End Tenancy for cause pursuant to section 40; and
- b) To recover filing fees for this application.

### **Issues to be Decided:**

Has the landlord proved on the balance of probabilities that there is cause to end the tenancy and that they are entitled to an Order of Possession? Or is the tenant entitled to any relief?

### **Background and Evidence:**

Both parties were given an opportunity to be heard, to provide evidence and make submissions. The Notice to End Tenancy was a one month notice given for cause pursuant to section 40 of the Act. The landlord stated the causes were that the son's behaviour significantly interferes with the peace and reasonable enjoyment of other tenants and the landlord, seriously jeopardizes the health or safety or lawful rights of other occupants or the landlord. He states the son also engages in illegal activity which adversely affects the peace and reasonable enjoyment of other occupants and jeopardizes their lawful rights. The landlord described how there was often a stream of vehicles late at night and his loud music significantly disturbs his neighbours.

The landlord emphasized that this behaviour of the son does not occur when the father is at home but from Monday to Thursday, the son's behaviour is so disturbing to other occupants that some have moved at considerable expense. In support of his evidence, the landlord supplied some letters from other tenants or occupants of the park. The neighbouring family states that the son turns up his music about two hours before they

need to get up for work. As a result, their family is getting very little sleep which is affecting their health and their son has had to rent a room in town in order to get some sleep. They filed a detailed chronology to illustrate their noise complaints and noted that one of the son's friends came over and said he was sick of her calling the manager about his music when he was visiting the son. Another occupant who lives nearby said this friend of the son blasts his music so loud that it makes her TV shake.

On September 13, 2016, the landlord said there was a fight in which the son was involved and one person was stabbed. He said Police informed him that charges would be laid. He said that the son is also very abusive to him when he tries to reason with him and have him conform to the park's rules. He notes that many tenants are intimidated by the son. The son is about 34 years old.

The tenant who is the son gave evidence. He said the landlord's evidence is exaggerated and fabricated. He said it is untrue and that his immediate neighbours are known complainers and Police have been called because of their frivolous complaints. He said the Police have told him that the complaints are frivolous. He said the other person who wrote the letter only lives periodically in the park with her family and it is highly unlikely that his or his friend's music systems would make her TV shake or cause her problems in watching it as her father has a big system. He believes the manager has coerced these people into making statements and says the manager insults and belittles him in front of others. He agreed there had been a fight in September and charges were being laid by Police but argued a person had a right to defend themselves. His father said he does not believe his son is a threat. He is in school and has nowhere to go so he cannot move out.

In evidence is a copy of the Notice to End Tenancy, complaint letters regarding the son's and his visitor's music, warning letters regarding park rules, the Regional District Bylaws regarding noise, proof of service and a PAD agreement.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

The onus is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy. I find the landlord has satisfied the onus. I find the weight of the evidence is that the tenant who is the son and his visitors are significantly disturbing the peaceful enjoyment of other tenants and affecting their physical wellbeing. I find the loud music of him or his guests is seriously affecting the health of others who cannot get enough sleep. Although the tenant said the neighbours make frivolous complaints and

he had been told this by the Police, I find this is hearsay evidence and there is insufficient evidence to support his statement. I find there is insufficient evidence to support his statement that the manager coerced witnesses to make their statements or that the manager's evidence is exaggerated. I find whether or not he is at fault in the fight which resulted in stabbing, he and his friends were present and this was another incident which seriously disturbed the peaceful enjoyment of other occupants in the park. I dismiss the application of the tenant to set aside the Notice to End Tenancy. The tenancy is at an end on October 31, 2016 pursuant to the Notice.

Pursuant to section 48 of the Act, I grant the landlord an Order of Possession effective January 31, 2017 as requested in the hearing.

**Conclusion:**

I dismiss the Application of the tenant to set aside the Notice. The Notice to End Tenancy dated September 18, 2016 is confirmed. An Order of Possession is issued effective January 31, 2017 as requested. I find the tenant not entitled to recover the filing fee due to lack of success.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: November 22, 2016

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Residential Tenancy Branch